

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

TIFFANY BISSELL,

Plaintiff,

v.

ELAINE MATA, IN HER INDIVIDUAL
CAPACITY, DANIELLE CLARIDGE, IN
HER INDIVIDUAL CAPACITY,
BRITTANY HEMENWAY, IN HER
INDIVIDUAL CAPACITY, FELISHA
RODRIGUEZ, IN HER INDIVIDUAL
CAPACITY; AND DOES 1-10,
INCLUSIVE,

Defendants.

CASE NO. 6:21-CV-00924-ADA-JCM

**PARTIES JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE AS TO
DEFENDANTS, BRITTANY HEMENWAY AND FELISHA RODRIGUEZ**

COMES NOW,

1. Plaintiff, **TIFFANY BISSELL**, and Defendants, **BRITTANY HEMENWAY AND FELISHA RODRIGUEZ**, and files this stipulation of dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(ii) without prejudice.

2. Plaintiff is Tiffany Bissell; Defendants are Brittany Hemenway, individually, and Felisha Rodriguez, individually.

3. On September 8, 2021, Plaintiff sued Defendants. Citation was issued, service of process executed, and Defendants duly made their appearances thereafter. Defendants filed their *Original Answer* (ECF Doc. 27) on July 8, 2022 in response to Plaintiff's *First Amended Complaint* (ECF Doc. 24) with the exceptions of Defendants Hemenway and Rodriguez who filed their 12(b)(6) *Motion to Dismiss* on July 8, 2022 (ECF Doc. 26).

4. Plaintiff's response to Defendants' motion to dismiss is due on July 22, 2022. Counsels for the parties have met and conferred and have come to an agreement that Defendants Hemenway and Rodriguez, individually, shall be dismissed jointly without prejudice until such time that both parties have had a chance to engage in meaningful discovery and Plaintiff reserves the right to rename and serve said Defendants as identified DOES, inclusively, as so plead in Plaintiff's complaint and premised on the rules of equitable tolling. (*See Green v. Doe*, 260 F. App'x 717, 719 (5th Cir. 2007); *see also Balle v. Nueces Cty.*, 952 F.3d 552, 558, 690 F. App'x 847, 851 (5th Cir. 2017)). Defendant, in turn, reserves the right to raise any response authorized by the Federal Rules of Civil Procedure in order to dismiss any future claims brought against the applicable Defendants hereunder, if applicable.

5. Furthermore, Defendant will not elect to penalize Plaintiff under Fed. R. Civ. P. 41(d) should these Defendants be renamed and served in the pending action and after discovery has been conducted accordingly.

6. The parties now, jointly, move to dismiss this suit against Defendants, Hemenway and Rodriguez.

7. This case is not a class action under Fed. R. Civ. P. 23, a derivative action under Rule 23.1, or an action related to an unincorporated association under Rule 23.2.

8. A receiver has not been appointed in this case.

9. This case is not governed by any federal statute that requires a court order for dismissal of the case.

10. Plaintiff has not previously dismissed any federal or state court suit based on or including the same claims as those presented in this case.

11. This dismissal is without prejudice.

PRAYER

12. For the foregoing reasons, parties hereunder request that the Court enter an order taking notice of the parties stipulation of dismissal and nonsuit of this cause without prejudice subject to refile, and directing that each party bear its own costs and attorney's fees expended in their respective behalves.

Respectfully submitted,

/s/ Edward A. Rose, Jr.

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/s/ John Daniel Coolidge (By permission 07/22/22)

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Counsel for Defendants Elaine Mata, Danielle Claridge, Brittany Hemenway, and Felisha Rodriquez

CERTIFICATE OF SERVICE

This is to certify that the foregoing instrument has been served via the Court's ECF filing system in compliance with Federal Rules of Civil Procedure on July 22, 2022, upon the following registered CM/ECF users registered as counsel of records, and has been transmitted to the Clerk of the Court:

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Respectfully submitted,

/s/ **Kent Motamedi**

Kent Motamedi

/s/ **Edward Rose**

Edward Rose, Jr.